

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

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CLARENCE CONNOR, ELBERT POWELL,  
AND MARILYN TORRES,

Plaintiffs,

Index No.:

-against-

CITY OF NEW YORK, DETECTIVE DANIEL HULL,  
BADGE NUMBER UNKNOWN, POLICE OFFICER  
DAVID WENZEL, BADGE NUMBER 13463, AND  
INSPECTOR RODNEY HARRISON, BADGE  
NUMBER UNKNOWN,

**VERIFIED COMPLAINT**

Defendants.

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Plaintiffs CLARENCE CONNOR, ELBERT POWELL, and MARILYN TORRES by and through their attorneys, TRACIE A. SUNDACK & ASSOCIATES, L.L.C., complaining of Defendants CITY OF NEW YORK, DETECTIVE DANIEL HULL, BADGE NUMBER UNKNOWN, POLICE OFFICER DAVID WENZEL, BADGE NUMBER 13463, and INSPECTOR RODNEY HARRISON, BADGE NUMBER UNKNOWN, respectfully allege as follows:

1. That at all times hereinafter mentioned, Defendant CITY OF NEW YORK was and still is a municipal corporation duly organized and existing under and by virtue of the General Municipal Law of the State of New York.
2. That at all times hereinafter mentioned, Defendant CITY OF NEW YORK, its agents servants and employees operated, maintained and controlled The New York City Police Department, including all the police officers thereof.
3. That at all times hereinafter mentioned Defendant DETECTIVE DANIEL HULL, BADGE NUMBER UNKNOWN, was employed by Defendant CITY OF NEW YORK as a police officer.
4. That at all times hereinafter mentioned Defendant DETECTIVE DANIEL HULL, BADGE NUMBER UNKNOWN, acted within the scope of his employment for Defendant CITY

OF NEW YORK.

5. That at all times hereinafter mentioned Defendant DETECTIVE DANIEL HULL, BADGE NUMBER UNKNOWN, was acting under the color and pretense of the statutes, ordinances, regulations, customs, and usages of the County of New York, City of New York, and under the authority of his office as a police officer for said county and city.

6. That at all times hereinafter mentioned Defendant POLICE OFFICER DAVID WENZEL, BADGE NUMBER 13463, was employed by Defendant CITY OF NEW YORK as a police officer.

7. That at all times hereinafter mentioned Defendant POLICE OFFICER DAVID WENZEL, BADGE NUMBER 13463, acted within the scope of his employment for Defendant CITY OF NEW YORK.

8. That at all times hereinafter mentioned Defendant POLICE OFFICER DAVID WENZEL, BADGE NUMBER 13463, was acting under the color and pretense of the statutes, ordinances, regulations, customs, and usages of the County of New York, City of New York, and under the authority of his office as a police officer for said county and city.

9. That at all times hereinafter mentioned Defendant INSPECTOR RODNEY HARRISON, BADGE NUMBER UNKNOWN, was employed by Defendant CITY OF NEW YORK as a police officer.

10. That at all times hereinafter mentioned Defendant INSPECTOR RODNEY HARRISON, BADGE NUMBER UNKNOWN, acted within the scope of his employment for Defendant CITY OF NEW YORK.

11. That at all times hereinafter mentioned Defendant INSPECTOR RODNEY HARRISON, BADGE NUMBER UNKNOWN, was acting under the color and pretense of the statutes, ordinances, regulations, customs, and usages of the County of New York, City of New York, and under the authority of his office as a police officer for said county and city.

12. At all relevant times, Plaintiffs CLARENCE CONNOR, ELBERT POWELL, and MARILYN TORRES were lawfully inside Apartment 10 F, 250 West 131<sup>st</sup> Street, New York,

New York (hereinafter the “premises”).

13. That on September 27, 2012, at approximately 1:30 p.m., as Plaintiff ELBERT POWELL opened the door to exit the premises, he was suddenly accosted by members of the New York City Police Department including, but not limited to, Defendants DETECTIVE DANIEL HULL, BADGE NUMBER UNKNOWN, POLICE OFFICER DAVID WENZEL, BADGE NUMBER 13463, and INSPECTOR RODNEY HARRISON, BADGE NUMBER UNKNOWN (hereinafter the “Defendant Police Officers”).

14. That the Defendant Police Officers, with firearms drawn, ordered Plaintiff ELBERT POWELL to stop. Plaintiff ELBERT POWELL complied, and upon complying, the Defendant Police Officers grabbed Plaintiff ELBERT POWELL, threw him to the floor, placed him in handcuffs, and dragged him across the floor to a seated position by the wall.

15. That the Defendant Police Officers rushed, with guns drawn, into the premises and into the bedroom which Plaintiffs CLARENCE CONNOR and MARILYN TORRES occupied. The Defendant Police Officers ordered Plaintiffs CLARENCE CONNOR and MARILYN TORRES to get on the ground.

16. That Plaintiff CLARENCE CONNOR complied, whereupon he was handcuffed and removed from the premises.

17. That Plaintiff MARILYN TORRES, who was sleeping when the Defendant Police Officers entered the premises, and woke to find herself surrounded by police officers brandishing firearms, also complied. Plaintiff MARILYN TORRES was handcuffed and, while lying on the floor, was kicked in the back of the head by the Defendant Police Officers. Plaintiff MARILYN TORRES was then roughly pulled to her feet, and shoved against a wall, causing her to strike her head. As a result of this unprovoked assault, Plaintiff MARILYN SOMOZA sustained blunt trauma injuries to her head. Plaintiff MARILYN TORRES was then removed from the premises.

18. That the Defendant Police Officers placed Plaintiffs CLARENCE CONNOR, ELBERT POWELL, and MARILYN TORRES under arrest despite Defendants’ knowledge that they lacked reasonable grounds or probable cause to do so.

19. That Plaintiffs CLARENCE CONNOR, ELBERT POWELL, and MARILYN TORRES were transported to the 32<sup>nd</sup> Precinct (250 West 135<sup>th</sup> Street, New York, New York 10030) where they were held for approximately seven hours until being released without charge.

20. That on October 22, 2012, within 90 days of the happening of the complained of incident, but more than 30 days prior to the commencement of this action, Plaintiffs CLARENCE CONNOR, ELBERT POWELL, and MARILYN TORRES duly presented, served, and filed Notices of Claim, in writing, upon Comptroller of Defendant CITY OF NEW YORK, setting forth the name and post office address of claimants; the nature of the claims, the time when, the place where, and the manner in which the claims arose.

21. That more than 30 days have elapsed since service of said Notices of Claim and payment or adjustment thereof has been neglected or refused on behalf of Defendants CITY OF NEW YORK, DETECTIVE DANIEL HULL, BADGE NUMBER UNKNOWN, POLICE OFFICER DAVID WENZEL, BADGE NUMBER 13463, and INSPECTOR RODNEY HARRISON, BADGE NUMBER UNKNOWN.

22. That on January 8, 2013, examinations of Plaintiffs CLARENCE CONNOR, ELBERT POWELL, and MARILYN TORRES were conducted pursuant to General Municipal Law § 50-h.

23. This action is commenced within one year and ninety days after the causes of action arose.

**AS AND FOR A FIRST CAUSE OF ACTION FOR  
FALSE ARREST UNDER 42 U.S.C. § 1983**

24. Plaintiffs CLARENCE CONNOR, ELBERT POWELL, and MARILYN TORRES repeat, reiterate, and reallege each and every paragraph of this complaint and further allege:

25. That at the aforementioned time and place, Defendants CITY OF NEW YORK, DETECTIVE DANIEL HULL, BADGE NUMBER UNKNOWN, POLICE OFFICER DAVID WENZEL, BADGE NUMBER 13463, and INSPECTOR RODNEY HARRISON, BADGE NUMBER UNKNOWN, placed Plaintiffs CLARENCE CONNOR, ELBERT POWELL, and MARILYN TORRES under arrest, despite Defendants' knowledge that they lacked probable

cause to do so.

26. That Plaintiffs CLARENCE CONNOR, ELBERT POWELL, and MARILYN TORRES had not committed any offense and Defendants CITY OF NEW YORK, DETECTIVE DANIEL HULL, BADGE NUMBER UNKNOWN, POLICE OFFICER DAVID WENZEL, BADGE NUMBER 13463, and INSPECTOR RODNEY HARRISON, BADGE NUMBER UNKNOWN, did not have reasonable grounds or probable cause to believe that Plaintiffs had committed any offense.

27. That Defendants CITY OF NEW YORK, DETECTIVE DANIEL HULL, BADGE NUMBER UNKNOWN, POLICE OFFICER DAVID WENZEL, BADGE NUMBER 13463, and INSPECTOR RODNEY HARRISON, BADGE NUMBER UNKNOWN, were aware that probable cause did not exist for the arrest and detention of Plaintiffs CLARENCE CONNOR, ELBERT POWELL, and MARILYN TORRES and that said arrest and detention was illegal, without justification or excuse, and without authority of law, and the Defendants acted with malicious intent to arrest, oppress, and injure Plaintiffs CLARENCE CONNOR, ELBERT POWELL, and MARILYN TORRES and such actions were committed in bad faith.

28. That, in all of the wrongful acts above alleged, Defendants CITY OF NEW YORK, DETECTIVE DANIEL HULL, BADGE NUMBER UNKNOWN, POLICE OFFICER DAVID WENZEL, BADGE NUMBER 13463, and INSPECTOR RODNEY HARRISON, BADGE NUMBER UNKNOWN, acted without reasonable or probable cause and with malicious intent to arrest, oppress, and injure Plaintiffs CLARENCE CONNOR, ELBERT POWELL, and MARILYN TORRES and such actions were committed in bad faith.

29. As a direct and proximate result of the above-described unlawful and malicious acts of Defendants CITY OF NEW YORK, DETECTIVE DANIEL HULL, BADGE NUMBER UNKNOWN, POLICE OFFICER DAVID WENZEL, BADGE NUMBER 13463, and INSPECTOR RODNEY HARRISON, BADGE NUMBER UNKNOWN, all committed under color of their authority as police officers, and while acting in that capacity, Plaintiffs CLARENCE CONNOR, ELBERT POWELL, and MARILYN TORRES was deprived of the

rights and immunities secured to him under the Constitutions and laws of the United States and of the State of New York, in particular the First, Fourth, Fifth, Eighth and Fourteenth Amendments thereof, and 42 U.S.C. §§ 1981, 1983, and 1985 (2) and (3), his liberty was restricted for an extended period of time, he was put in fear for his safety, and he was humiliated and subjected to handcuffing and other physical restraints, without probable cause.

30. As a further result of the above-described acts, Plaintiffs CLARENCE CONNOR, ELBERT POWELL, and MARILYN TORRES was deprived of the rights and immunities secured to him under the Constitution and laws of the United States and of the State of New York.

**AS AND FOR A SECOND CAUSE OF ACTION FOR  
FALSE IMPRISONMENT UNDER 42 U.S.C. § 1983**

31. Plaintiffs CLARENCE CONNOR, ELBERT POWELL, and MARILYN TORRES repeat, reiterate, and reallege each and every paragraph of this complaint and further allege:

32. That Plaintiffs CLARENCE CONNOR, ELBERT POWELL, and MARILYN TORRES was falsely imprisoned on September 27, 2012, from approximately 1:30 p.m. to approximately 8:30 p.m., by Defendant CITY OF NEW YORK, its agents, servants, and employees, including but not limited to Defendants DETECTIVE DANIEL HULL, BADGE NUMBER UNKNOWN, POLICE OFFICER DAVID WENZEL, BADGE NUMBER 13463, and INSPECTOR RODNEY HARRISON, BADGE NUMBER UNKNOWN, who procured and/or effected said false imprisonment knowing their actions to be wrongful and malicious and without any basis.

33. That Defendant CITY OF NEW YORK by and through its agents, servants, and employees, including but not limited to, Defendants DETECTIVE DANIEL HULL, BADGE NUMBER UNKNOWN, POLICE OFFICER DAVID WENZEL, BADGE NUMBER 13463, and INSPECTOR RODNEY HARRISON, BADGE NUMBER UNKNOWN intended to confine Plaintiffs CLARENCE CONNOR, ELBERT POWELL, and MARILYN TORRES and Plaintiffs CLARENCE CONNOR, ELBERT POWELL, and MARILYN TORRES were conscious of the confinement, and Plaintiffs CLARENCE CONNOR, ELBERT POWELL, and MARILYN

TORRES did not consent to the confinement.

34. That Defendants' words, actions, and the charges laid by them were willful, malicious, false, wrongful, without reason or basis and without probable cause and committed in bad faith and solely for the purpose of falsely imprisoning Plaintiffs CLARENCE CONNOR, ELBERT POWELL, and MARILYN TORRES and damaging Plaintiffs CLARENCE CONNOR, ELBERT POWELL, and MARILYN TORRES in their reputation and depriving them of their liberty.

35. That as a direct and proximate result of the above-described unlawful and malicious acts of Defendants DETECTIVE DANIEL HULL, BADGE NUMBER UNKNOWN, POLICE OFFICER DAVID WENZEL, BADGE NUMBER 13463, and INSPECTOR RODNEY HARRISON, BADGE NUMBER UNKNOWN, all committed under color of their authority as police officers for Defendant CITY OF NEW YORK, and while acting in that capacity, Plaintiffs CLARENCE CONNOR, ELBERT POWELL, and MARILYN TORRES suffered damage, all of which is in violation of his rights under the Constitution and laws of the United States and of the State of New York.

**AS AND FOR A THIRD CAUSE OF ACTION FOR  
MUNICIPAL LIABILITY**

36. Plaintiffs CLARENCE CONNOR, ELBERT POWELL, and MARILYN TORRES repeat, reiterate, and reallege each and every paragraph of this complaint and further allege:

37. Defendants DETECTIVE DANIEL HULL, BADGE NUMBER UNKNOWN, POLICE OFFICER DAVID WENZEL, BADGE NUMBER 13463, and INSPECTOR RODNEY HARRISON, BADGE NUMBER UNKNOWN, collectively and individually, while acting under color of state law, engaged in conduct that constituted a custom, usage, practice, procedure or rule of the respective municipality/authority, which is forbidden by the Constitution of the United States.

38. That the aforementioned customs, policies, usages, practices, procedures and rules of the City of New York and the New York City Police Department included, but were not limited to, wrongfully detaining minority males based on racial profiling and making unlawful arrests in order

to satisfy an arrest quota.

39. The foregoing customs, policies, usages, practices, procedures and rules of the City of New York and the New York City Police Department constituted deliberate indifference to the safety, well-being and constitutional rights of Plaintiffs CLARENCE CONNOR, ELBERT POWELL, and MARILYN TORRES.

40. The foregoing customs, policies, usages, practices, procedures and rules of the City of New York and the New York City Police Department were the direct and proximate cause of the constitutional violations suffered by Plaintiffs CLARENCE CONNOR, ELBERT POWELL, and MARILYN TORRES as alleged herein.

41. The foregoing customs, policies, usages, practices, procedures and rules of the City of New York and the New York City Police Department were the moving force behind the constitutional violations suffered by Plaintiffs CLARENCE CONNOR, ELBERT POWELL, and MARILYN TORRES as alleged herein.

42. Defendants DETECTIVE DANIEL HULL, BADGE NUMBER UNKNOWN, POLICE OFFICER DAVID WENZEL, BADGE NUMBER 13463, and INSPECTOR RODNEY HARRISON, BADGE NUMBER UNKNOWN collectively and individually, while acting under the color of state law, were directly and actively involved in violating Plaintiffs CLARENCE CONNOR, ELBERT POWELL, and MARILYN TORRES's constitutional rights.

43. All of the foregoing acts by defendants deprived Plaintiffs CLARENCE CONNOR, ELBERT POWELL, and MARILYN TORRES of federally protected rights including, but not limited to, the right:

- A. Not to be deprived of liberty without due process;
- B. To be free from seizure and arrest not based on probable cause;
- C. To be free from unlawful search;
- D. Not to have cruel and unusual punishment imposed upon him;
- E. To receive equal protection under the law.

**AS AND FOR A FOURTH CAUSE OF ACTION FOR**  
**FAILURE TO INTERVENE**

44. Plaintiffs CLARENCE CONNOR, ELBERT POWELL, and MARILYN TORRES repeat, reiterate and reallege each and every allegation contained in this complaint and further allege:

45. Each and every individual Defendant Police Officer had an affirmative duty to intervene on Plaintiffs CLARENCE CONNOR, ELBERT POWELL, and MARILYN TORRES's behalf to prevent the violation of his constitutional rights and failed to so intervene despite having had a realistic opportunity to do so.

46. As a result of the aforementioned conduct of the individual Defendants, Plaintiffs CLARENCE CONNOR, ELBERT POWELL, and MARILYN TORRES's constitutional rights were violated and he was subjected to excessive force and sustained physical injuries.

**AS AND FOR A FIFTH CAUSE OF ACTION FOR**  
**FALSE ARREST UNDER NEW YORK STATE LAW**

47. Plaintiffs CLARENCE CONNOR, ELBERT POWELL, and MARILYN TORRES repeat, reiterate, and reallege each and every paragraph of this complaint and further allege:

48. Defendants DETECTIVE DANIEL HULL, BADGE NUMBER UNKNOWN, POLICE OFFICER DAVID WENZEL, BADGE NUMBER 13463, and INSPECTOR RODNEY HARRISON, BADGE NUMBER UNKNOWN arrested Plaintiffs CLARENCE CONNOR, ELBERT POWELL, and MARILYN TORRES in the absence of probable cause and without a warrant.

49. As a result of the aforesaid conduct by Defendants DETECTIVE DANIEL HULL, BADGE NUMBER UNKNOWN, POLICE OFFICER DAVID WENZEL, BADGE NUMBER 13463, and INSPECTOR RODNEY HARRISON, BADGE NUMBER UNKNOWN, Plaintiffs CLARENCE CONNOR, ELBERT POWELL, and MARILYN TORRES were subjected to an illegal, improper and false arrest by the Defendants and taken into custody and cause to be falsely imprisoned, detained, confined, incarcerated by the Defendants.

50. The aforesaid actions by Defendants DETECTIVE DANIEL HULL, BADGE NUMBER UNKNOWN, POLICE OFFICER DAVID WENZEL, BADGE NUMBER 13463, and INSPECTOR

RODNEY HARRISON, BADGE NUMBER UNKNOWN constituted a deprivation of Plaintiffs CLARENCE CONNOR, ELBERT POWELL, and MARILYN TORRES's rights.

**AS AND FOR A SIXTH CAUSE OF ACTION FOR  
FALSE IMPRISONMENT UNDER NEW YORK STATE LAW**

51. Plaintiffs CLARENCE CONNOR, ELBERT POWELL, and MARILYN TORRES repeat, reiterate, and reallege each and every paragraph of this complaint and further allege:

52. As a result of the foregoing, Plaintiffs CLARENCE CONNOR, ELBERT POWELL, and MARILYN TORRES were falsely imprisoned, their liberty was restricted for an extended period of time, they was put in fear for their safety, and they was humiliated and subjected to handcuffing and other physical restraints.

53. Plaintiffs CLARENCE CONNOR, ELBERT POWELL, and MARILYN TORRES were conscious of said confinement and did not consent to same.

54. The confinement of Plaintiffs CLARENCE CONNOR, ELBERT POWELL, and MARILYN TORRES was without probable cause and was not otherwise privileged.

55. As a result of the aforementioned conduct, Plaintiffs CLARENCE CONNOR, ELBERT POWELL, and MARILYN TORRES have suffered physical and mental injury, together with embarrassment, humiliation, shock, fright and loss of freedom.

**AS AND FOR A SEVENTH CAUSE OF ACTION FOR  
NEGLIGENT HIRING AND RETENTION UNDER NEW YORK STATE LAW**

56. Plaintiffs CLARENCE CONNOR, ELBERT POWELL, and MARILYN TORRES repeat, reiterate, and reallege each and every paragraph of this complaint and further allege:

57. That Defendant CITY OF NEW YORK, was careless and reckless in hiring and retaining as and for its employees, Defendants DETECTIVE DANIEL HULL, BADGE NUMBER UNKNOWN, POLICE OFFICER DAVID WENZEL, BADGE NUMBER 13463, and INSPECTOR RODNEY HARRISON, BADGE NUMBER UNKNOWN, in that said Defendant employees lacked the experience, deportment and ability to be employed by Defendant CITY OF NEW YORK; in that Defendant CITY OF NEW YORK failed to exercise due care and caution in its hiring practices, and in particular, in hiring the defendant employees who lacked the mental

capacity and the ability to function as employees of Defendant CITY OF NEW YORK; in that the Defendant employees lacked the maturity, sensibility and intelligence to be employed by Defendant CITY OF NEW YORK; in that Defendant CITY OF NEW YORK knew of the lack of ability, experience, deportment and maturity of said Defendant employees when they hired them to be employees; and, in that Defendant CITY OF NEW YORK, its agents, servants and/or employees were otherwise careless, negligent and reckless.

58. Defendant CITY OF NEW YORK knew, or should have known in the exercise of reasonable care, the propensities of Defendants DETECTIVE DANIEL HULL, BADGE NUMBER UNKNOWN, POLICE OFFICER DAVID WENZEL, BADGE NUMBER 13463, and INSPECTOR RODNEY HARRISON, BADGE NUMBER UNKNOWN, to engage in the wrongful conduct heretofore alleged in this Complaint.

**AS AND FOR AN EIGHTH CAUSE OF ACTION FOR  
NEGLIGENT TRAINING AND SUPERVISION UNDER NEW YORK STATE LAW**

59. Plaintiffs CLARENCE CONNOR, ELBERT POWELL, and MARILYN TORRES repeat, reiterate, and reallege each and every paragraph of this complaint and further allege:

60. The failure of Defendant CITY OF NEW YORK to adequately train, supervise, discipline or in any way control the behavior of Defendants DETECTIVE DANIEL HULL, BADGE NUMBER UNKNOWN, POLICE OFFICER DAVID WENZEL, BADGE NUMBER 13463, and INSPECTOR RODNEY HARRISON, BADGE NUMBER UNKNOWN, in the exercise of their employment functions, and their failure to enforce the laws of the State of New York and the regulations of Defendant CITY OF NEW YORK, is evidence of the reckless lack of cautious regard for the rights of the public including Plaintiffs CLARENCE CONNOR, ELBERT POWELL, and MARILYN TORRES. Further, the Defendants exhibited a lack of that degree of due care which prudent and reasonable individuals would show.

61. The failure of Defendant CITY OF NEW YORK, to train, supervise, discipline or in any other way control Defendants CITY OF NEW YORK, DETECTIVE DANIEL HULL, BADGE NUMBER UNKNOWN, POLICE OFFICER DAVID WENZEL, BADGE NUMBER 13463, and INSPECTOR RODNEY HARRISON, BADGE NUMBER UNKNOWN, in the

exercise of their employment functions and their failure to enforce the laws of the State of New York and the regulations of Defendant CITY OF NEW YORK, was carried out willfully, wantonly, maliciously and with such reckless disregard for the consequences as to display a conscious disregard for the dangers of harm and injury to the citizens of New York, including Plaintiffs CLARENCE CONNOR, ELBERT POWELL, and MARILYN TORRES.

**AS AND FOR A NINTH CAUSE OF ACTION FOR  
EXCESSIVE FORCE UNDER 42 U.S.C. § 1983**

62. Plaintiff MARILYN TORRES repeats, reiterates and realleges each and every paragraph of this complaint and further alleges:

63. The level of force employed by Defendants DETECTIVE DANIEL HULL, BADGE NUMBER UNKNOWN, POLICE OFFICER DAVID WENZEL, BADGE NUMBER 13463, and INSPECTOR RODNEY HARRISON, BADGE NUMBER UNKNOWN, was objectively unreasonable, and in violation of Plaintiff MARILYN TORRES' constitutional rights.

64. As a result of the aforementioned conduct of Defendants DETECTIVE DANIEL HULL, BADGE NUMBER UNKNOWN, POLICE OFFICER DAVID WENZEL, BADGE NUMBER 13463, and INSPECTOR RODNEY HARRISON, BADGE NUMBER UNKNOWN, Plaintiff MARILYN TORRES was subjected to excessive force and sustained physical injuries.

**AS AND FOR A TENTH CAUSE OF ACTION FOR  
ASSAULT UNDER NEW YORK STATE LAW**

65. Plaintiff MARILYN TORRES repeats, reiterates and realleges each and every paragraph of this complaint and further alleges:

66. The aforementioned acts of Defendants DETECTIVE DANIEL HULL, BADGE NUMBER UNKNOWN, POLICE OFFICER DAVID WENZEL, BADGE NUMBER 13463, and INSPECTOR RODNEY HARRISON, BADGE NUMBER UNKNOWN, placed Plaintiff MARILYN TORRES in apprehension of imminent harmful and offensive bodily contact.

67. As a result of the conduct of Defendants DETECTIVE DANIEL HULL, BADGE NUMBER UNKNOWN, POLICE OFFICER DAVID WENZEL, BADGE NUMBER 13463, and INSPECTOR RODNEY HARRISON, BADGE NUMBER UNKNOWN, Plaintiff MARILYN

TORRES has suffered physical pain and mental anguish, together with shock, fright, apprehension, embarrassment and humiliation.

**AS AND FOR A ELEVENTH CAUSE OF ACTION  
FOR BATTERY UNDER NEW YORK STATE LAW**

68. Plaintiff MARILYN TORRES repeats, reiterates and realleges each and every paragraph of this complaint and further alleges:

69. Defendants DETECTIVE DANIEL HULL, BADGE NUMBER UNKNOWN, POLICE OFFICER DAVID WENZEL, BADGE NUMBER 13463, and INSPECTOR RODNEY HARRISON, BADGE NUMBER UNKNOWN, touched Plaintiff MARILYN TORRES in a harmful and offensive manner.

70. Defendants DETECTIVE DANIEL HULL, BADGE NUMBER UNKNOWN, POLICE OFFICER DAVID WENZEL, BADGE NUMBER 13463, and INSPECTOR RODNEY HARRISON, BADGE NUMBER UNKNOWN, did so without privilege or consent from Plaintiff MARILYN TORRES.

71. As a result of the conduct of Defendants DETECTIVE DANIEL HULL, BADGE NUMBER UNKNOWN, POLICE OFFICER DAVID WENZEL, BADGE NUMBER 13463, and INSPECTOR RODNEY HARRISON, BADGE NUMBER UNKNOWN, Plaintiff MARILYN TORRES, has suffered physical pain and mental anguish, together with shock, fright, apprehension, embarrassment and humiliation.

72. As a result of the foregoing, Plaintiffs CLARENCE CONNOR, ELBERT POWELL, and MARILYN TORRES is entitled to compensatory damages in the sum of One Million Dollars (\$1,000,000.00) and is further entitled to punitive damages against the individual Defendants in the sum of Three Million Dollars (\$3,000,000.00)

**WHEREFORE** Plaintiffs CLARENCE CONNOR, ELBERT POWELL, and MARILYN TORRES demands judgment against Defendants CITY OF NEW YORK, DETECTIVE DANIEL HULL, BADGE NUMBER UNKNOWN, POLICE OFFICER DAVID WENZEL, BADGE NUMBER 13463, and INSPECTOR RODNEY HARRISON, BADGE NUMBER

UNKNOWN, jointly and severally, in the amount of One Million Dollars (\$1,000,000.00) in compensatory damages and Three Million Dollars (\$3,000,000.00) in punitive damages, plus reasonable attorney's fees, costs and disbursements of this action.

Dated: White Plains, New York  
November 20, 2013

*Tracie Sundack*  
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TRACIE A. SUNDACK & ASSOCIATES, L.L.C.  
By: Tracie A. Sundack, Esq.  
Attorneys for Plaintiffs  
CLARENCE CONNOR, ELBERT POWELL, &  
MARILYN TORRES  
19 Court Street, 3<sup>rd</sup> Floor  
White Plains, New York 10601  
(914) 946-8100

**ATTORNEY'S VERIFICATION**

I, the undersigned, an attorney admitted to practice in the Courts of the State of New York, state:

That I am the attorney of record for the Plaintiffs in the within action.

That I have read the foregoing SUMMONS and COMPLAINT and know the contents thereof; the same is true to my own knowledge, except for the matters therein alleged to be on information and belief, and as to those matters I believe them to be true. The reason this Verification is made by me and not by the Plaintiffs is that Plaintiffs resides outside the County where your affiant maintains his office. The grounds of my belief as to all matters not stated upon my own knowledge are as follows: files maintained by my office and conversations with Plaintiffs.

I affirm that the foregoing statements are true, under the penalties of perjury.

Dated: White Plains, New York  
November 20, 2013

Tracie Sundack  
TRACIE A. SUNDACK